

Introduced by Senator PolancoFebruary 19, 2002

An act to add Sections 3047 and 3048 to the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

SB 1497, as introduced, Polanco. Parole: life prisoners.

Under existing law, the Board of Prison Terms considers applications for parole release of life prisoners sentenced under provisions permitting parole after specified minimum sentences.

This bill would make findings and declarations of the Legislature concerning prisoners with indeterminate life sentences. It would set up a one-time review of the custody status of life prisoners who have been in prison beyond a date specified in certain regulatory matrices. It would require a 3-judge panel from the sentencing jurisdiction to consider various matters as to each prisoner qualifying for the review, and either order the immediate release of the prisoner, set a fixed parole date, as specified, or order the inmate to remain in custody, pending the hearing process of the Board of Prison Terms.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3047 is added to the Penal Code, to read:
- 2 3047. The Legislature finds and declares the following:
- 3 (a) The Legislature has assigned indeterminate life sentences
- 4 for various violent and serious crimes, generally stating a
- 5 minimum number of years to be served prior to parole release. The



1 minimum time that must be served prior to parole for an inmate
2 sentenced to life in prison is seven years, unless otherwise
3 specified by statute. Other life sentences have specified minimum
4 terms of 15 or 25 years.

5 (b) The Board of Prison Terms is charged with evaluating every
6 inmate's eligibility for parole on an indeterminate sentence, based
7 on several factors prescribed by statute.

8 (c) The Penal Code requires that a parole release date shall be
9 set in a "manner that will provide uniform terms for offenses of
10 similar gravity and magnitude with respect to their threat to the
11 public."

12 (d) Consistent with the Penal Code, the board has developed
13 several matrices that suggest the appropriate amount of time to be
14 served by inmates on indeterminate sentences, based on the
15 circumstances of their crimes. The matrices serve to establish
16 relative culpability of those offenders.

17 (e) Currently, the matrices are used to determine the
18 appropriate sentence of an inmate only after the inmate has been
19 found suitable for parole. Often, by the time an inmate is found
20 suitable, the recommended amount of time to be served according
21 to the matrix has passed.

22 (f) There are approximately 24,500 inmates serving
23 indeterminate life sentences. More than 1,200 of those have been
24 in prison for over 20 years. Many of those who have been in prison
25 over 20 years had an initial sentence of seven-years-to-life. Of
26 those, many were convicted of a crime other than murder.

27 (g) Given these numbers, it is appropriate to review the use of
28 the matrices in determining inmates' eligibility for parole, to
29 ensure that their application is consistent with the intent of the
30 Legislature that sentences shall be uniform according to their
31 gravity, magnitude, and threat to the public.

32 SEC. 2. Section 3048 is added to the Penal Code, to read:

33 3048. (a) Every inmate with an indeterminate life sentence
34 who has been in prison for a period of time that exceeds the
35 suggested time in the applicable matrix, as established in Title 15
36 of the California Code of Regulations as of January 1, 2002, shall
37 have his or her case reviewed as follows:

38 (1) The review shall be conducted by a three-judge panel in the
39 jurisdiction in which initial sentence was imposed, to determine
40 whether it is appropriate to continue to incarcerate the inmate.



(2) The reviewing panel shall not try the case anew. In conducting its review, the panel shall take into consideration all of the following:

(A) The opinion of the presiding judge at the original trial as to the relative culpability of the defendant, as compared to other defendants accused of similar crimes, and as compared to any codefendants in the case.

(B) The sentence imposed.

(C) The suggested time to be served under the appropriate matrix in Title 15 of the California Code of Regulations.

(D) Any information in the possession of the Department of Corrections from an inmate's central file, and any information reported in Department of Corrections forms 112, 115, 128-B, or other significant sources of inmate performance information.

(E) Whether, notwithstanding the above factors, public safety demands that the inmate continue to be incarcerated.

(F) Any relevant material submitted by the Board of Prison Terms.

(G) Any other information the panel deems necessary and relevant, except that the panel shall not consider any factor concerning the original offense that appears to have been rejected by the trier-of-fact at the time of trial as not proved beyond a reasonable doubt.

(b) The Board of Prison Terms shall submit to the review panel its specific reasons for not finding the inmate suitable for parole, based on its suggested term under the applicable matrix.

(c) The review panel shall either order the inmate to be released immediately, set a maximum parole date, or order the inmate to continue to remain incarcerated, pending the regular Board of Prison Terms hearing process. If the panel sets a maximum parole date, and the board wishes to retain the prisoner beyond that date because of the conduct of the prisoner subsequent to the review panel decision, the board may request that the panel reconvene to reconsider its decision in light of the subsequent conduct.

(d) The decision of the panel shall supercede any Board of Prison Terms action to the contrary, and may be reviewed only by a higher court and only for abuse of discretion.



1 (e) Except as provided in subdivision (c), there shall be only
2 one review panel decision for each prisoner pursuant to this
3 section.

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